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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,785	03/29/2001	J. Don Dayley	10003673-1	6400

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EXAMINER

LAstra, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,785

Applicant(s)

DAYLEY, J. DON

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19 have been examined. Application 09/823,785 (METHOD FOR PERSONALIZED DRIVE-THRU SERVICE) has a filing date 03/29/2001

Response to Amendment

2. In response to Non Final rejection filed 10/04/04, the Applicant amended claims 1, 5-13, 15, 17 and 18.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCall et al (U.S. 6,152,591) in view of Herz et al (U.S. 6,571,279).

As per claim 1, McCall teaches:

A method for providing customized menu service for a *restaurant* drive-thru customer in a vehicle, the customer making menu selections from a main menu the method comprising:

creating a customer profile corresponding to said unique customer identity code (see column 9, lines 60-67);

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recording the user menu selections from the main menu during said first visit in said customer profile (see column 10, line 25 – column 11, line 14);

retrieving said customer profile corresponding to said unique customer identity code (see column 9, line 33 – column 10, line 10);

creating a custom menu from said customer profile; and, displaying said custom menu to fine customer during said subsequent *visit to the restaurant drive-thru* (see column 10, line 25 – column 11, line 14; column 9, line 37 – column 10, line 25; column 11, lines 55-65).

McCall fails to teach scanning a unique customer identity code from a machine readable identity means attached to the customer vehicle *when the vehicle enters the restaurant drive-thru* during a first visit to the *restaurant drive-thru*; and scanning said unique identity code from said machine readable identity means *when the vehicle enters the restaurant drive-thru* during a subsequent visit to the *restaurant drive-thru*. However, Herz teaches a license-plate scanning with camera system that identifies users by their vehicles' license plates and uses this information to target advertisements to the users (see abstract and column 1, lines 15-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall would customize a menu selection to users based upon identifying the users by their vehicles license plates, as taught by Herz. This feature would target advertisements to users without the users need to input manual identification.

As per claim 2, McCall and Herz teach:

A method as defined by claim 1 wherein said machine readable identity means comprise a license plate, and said unique customer identity code comprises a license plate number. The same rejection applied to claim 1 is applied to claim 2.

As per claim 3, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein said machine readable identity means comprise a machine readable badge. However, Herz teaches a system that identify users based upon machine readable badge (see column 3, lines 1-9). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall drive-thru system would identify users by using the users machine-readable badges. This feature would target advertisements to users without the users need to input manual identification.

As per claim 4, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein said machine-readable identity means comprise a machine readable bumper sticker. The same rejection applied to claim 3 is applied to claim 4.

As per claim 5, McCall and Herz teach:

A method as defined by claim 1 further comprising: using the customer menu selections from said first visit to create a suggested new item list, and, displaying said suggested new item list to the customer during said second visit (see McCall column 10, line 25 – column 11, line 14).

As per claim 6, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein scanning a unique customer identity code further comprises scanning said machine readable identity means attached to the customer vehicle using a scanning means comprising an electronic sensing device capable of emitting light rays and receiving reflections of said emitted rays, said electronic sensing device being capable of detecting characters (see Herz abstract). The same rejection applied to claim 1 is applied to claim 6.

As per claim 7, McCall and Herz teach:

A method as defined by claim 1 wherein displaying said custom menu comprises displaying said custom menu using display means proximate to the main menu (see McCall column 10, lines 35-40).

As per claim 8, McCall and Herz teach:

A method as defined by claim 1 wherein said method further comprises providing a custom marketing offer with said custom menu (see McCall column 11, lines 32-65).

As per claim 10, McCall and Herz teach:

A method as defined by claim 8 wherein providing a custom marketing offer with said custom menu comprises offering a discounted purchase price on an item not on said custom menu (see column 11, lines 32-65).

As per claim 11, McCall and Herz teach:

A method as defined by claim 1 wherein said method further comprises recording a time value corresponding to the customer menu selections made during said first visit (see column 11, lines 49-65).

As per claim 12, McCall and Herz teach:

A method for providing customized menu service to a *restaurant* drive-thru customer in a vehicle, the customer making menu selections from a main menu, the method comprising:

scanning a license plate number from the customer vehicle *when the vehicle enters the restaurant drive-thru* with scanning means during a first visit to the restaurant;

creating a customer profile corresponding to said license plate number;

recording the user menu selections from the main menu made during said first visit in said customer profile;

recording a time value corresponding to the time the customer menu selections are made in said customer profile;

scanning said license plate number from the customer vehicle *when the vehicle enters the restaurant drive-thru* during each of a plurality of subsequent visits to the drive-thru with said scanning means;

recording menu selections made by the customer during said each of a plurality of subsequent visits in said customer profile;

creating a custom menu using the menu selection items stored in said customer profile;

creating a custom marketing offer for the customer using the menu selection items stored in said customer profile; and, displaying said custom menu and said custom marketing offer to the customer during said each of a plurality of subsequent visits to the restaurant. The same rejection applied to claims 2, 8, and 11 is applied to claim 12.

As per claim 13, McCall teach:

A method for providing a custom menu to a *restaurant* drive-thru customer in a vehicle making menu selections, the method comprising:

comparing said customer identity code to a plurality of existing unique customer identity codes on an existing customer list to determine whether said unique customer identity code matches any of said plurality of existing unique customer identity codes (see column 9, lines 5-67);

categorizing the customer as a new customer if said unique identity code does not match any of said existing unique customer identity codes (see column 9, lines 5-69);

entering said unique customer identity on said existing customer list if the customer is categorized as a new customer (see column 9, lines 5-67);

creating a unique customer profile corresponding to said unique customer identity code if the customer is categorized as a new customer (see column 9, lines 5-67);

storing the customer menu selections made by said new customer in the customer profile for future retrieval (see column 9, lines 5-67);

categorizing said customer as an existing customer if said unique customer identity code matches any of said existing unique customer identity codes (see column 9, lines 5-67);

retrieving a customer profile corresponding to said unique customer identity if the customer is categorized as an existing customer (see column 9, lines 5-67);

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creating a custom menu from said customer profile if the customer is categorized as an existing customer, said custom menu comprising previous selection items made by said existing customer (see column 9, lines 5-25; column 10, lines 10-60);

displaying said custom menu to said existing customer (see column 10, line 40 – column 11, line 14);

recording menu selections made by said existing customer in said customer profile (see column 9, lines 60-67); and,

storing said customer profile for said existing customer for future retrieval (see column 9, line 60 – column 10, line 10).

McCall fails to teach scanning a unique customer identity code from a machine readable identity means attached to the customer vehicle, *when the vehicle enters the restaurant drive-thru*. However, the same rejection applied to claim 1 is applied to claim 13.

As per claim 14, McCall and Herz teach:

A method as defined by claim 13, but fails to teach wherein said machine-readable identity means comprise a license plate. However the same rejection applied to claim 2 is applied to claim 14.

As per claim 15, McCall and Herz teach:

A computer program product for providing a custom menu to a *restaurant drive-thru* customer in a vehicle making menu selections from a main menu, the program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

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cause scanning means to scan a unique customer identity code from a machine readable identity means attached to the customer vehicle *when the vehicle enters the restaurant drive-thru* during a first visit to the drive-thru;

create a customer profile corresponding to said unique customer identity code;

record the user's menu selections from the main menu during said first visit in said customer profile;

scan said unique customer identity code from said machine readable identity means *when the vehicle enters the restaurant drive-thru* during a second visit to the drive-thru;

create a custom menu from said user menu choices stored in said customer profile; and,

display said custom menu to the customer during said second visit to the drive-thru. Claim 15 contains the same limitations as claim 1 therefore the same rejection is applied.

As per claim 16, McCall and Herz teach:

A computer program product as defined by claim 15 wherein said machine-readable identity means attached to the customer vehicle comprises a license plate. Claim 16 contains the same limitations as claim 2 therefore the same rejection is applied.

As per claim 17, McCall and Herz teach:

A computer program product for providing customized menu service to a restaurant drive-thru customer in a vehicle making menu selections from a main menu,

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the program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

- scan a license plate number from the vehicle *when the vehicle enters the restaurant drive-thru* during a visit to the restaurant;

- create a customer profile corresponding to said scanned license plate number;

- record the user menu selections from the main menu made during said visit in said customer profile;

- scan said license plate number from the vehicle *when the vehicle enters the restaurant drive-thru* during each of a plurality of subsequent visits to the restaurant;

- record menu selections made by the customer during said subsequent visits to the restaurant in said customer profile;

- create a custom menu from said customer profile, said custom menu comprising menu selection items stored in said customer profile; and, display said custom menu to the customer during said subsequent visits to the restaurant. Claim 17 contains the same limitations as claim 1 therefore the same rejection is applied.

As per claim 18, McCall and Herz teach:

A computer program product for providing a custom menu to a *restaurant drive-thru* customer in a vehicle making menu selections, the computer program product utilizing scanning means comprising an electronic sensor for emitting light rays and interpreting images from the reflections of the emitted rays, the computer program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

cause the scanning means to scan a unique customer identity code from a machine readable identity means attached to the customer vehicle *when the vehicle enters the restaurant drive-thru*;

compare said unique customer identity code to a plurality of existing unique customer codes on an existing customer list stored in a data repository connected to the computer to determine whether said unique customer identity code matches any of said plurality of existing unique customer identity codes;

categorize the customer as a new customer if said unique customer identity code does not match any of said existing unique customer identity codes;

add said unique customer identity code to said existing customer list if the customer is categorized as a new customer;

create a customer profile corresponding to said unique customer identity code if the customer is categorized as a new customer;

record the customer menu selections made by said new customer in said customer profile;

store said customer profile in said data repository for future retrieval;

categorize the customer as an existing customer if said unique customer identity code matches any of said existing unique customer identity codes from said existing customer list;

retrieve a customer profile corresponding to said unique customer identity code from said data repository if the customer is categorized as an existing customer;

create a custom menu comprising previous customer menu selection items stored in said customer profile if said customer is categorized as an existing customer;

display said custom menu to said existing customer on display means proximate said main menu board; and,

record the customer menu selections made by said existing customer in said customer profile;

store said customer profile in said data repository for future retrieval. The same rejection applied to claims 6, 7 and 13 is applied to claim 18.

As per claim 19, McCall and Herz teach:

A computer program product as defined by claim 18 wherein said machine readable identity means comprise a license plate, and wherein said unique customer identity code comprises a license plate number. Claim 19 contains the same limitations as claim 14 therefore the same rejection is applied.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCall et al (U.S. 6,152,591) in view of Herz (U.S. 6,571,279) and further in view of Storey (U.S. 6,578,012).

As per claim 9, McCall and Herz teach:

A method as defined by claim 8 but fails to teach wherein providing a custom marketing offer with said custom menu comprises the steps of:

awarding points to the customer based on customer menu selections during said first and subsequent visits; storing a total number of said points in said customer profile; and displaying said total number of points with said custom menu during said

subsequent visits. However, Storey teaches a system that grants reward points based upon customers' purchase transactions (see column 5, lines 56-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall and Herz would grant reward points to customers based upon customers' purchase transactions, as taught by Storey. The grant purchase rewards would serve as an incentive to users, as users would be able to redeem prizes with the earned incentive points.

Response to Arguments

4. Applicant's arguments filed 12/02/04 have been fully considered but they are not persuasive. The Applicant argues that McCall does not teach providing a customized menu service for a restaurant drive-thru customer in a vehicle. The Examiner answers that a restaurant is a place where meals are served to the public. McCall teaches in column 9, lines 35-67 "The customer flag settings differentiating between customers intending to pay outside at the pump are also useful in determining the categories of advertisements or amenity offerings to be made to the customer while the customer is dispensing fuel. For example, if the customer is going to pay inside, the advertisements and amenity offerings might prompt the customer to purchase items that are normally found inside the store, e.g., cigarettes, lottery tickets, candy, or other impulse items. Alternatively, if the customer is going to pay outside, the selection of advertisements and amenity offerings to choose from might be geared toward items more likely to be available outside the store or available through mail order vendors, e.g., a car wash; a delivery of food items to the car; or a selection of national catalog offerings that can be

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mailed to the home. Thus the customer flag enables the system to offer the customer different categories of advertisements and amenities depending upon (1) the expert or novice status of the user; and (2) the location of payment either at the pump or inside the store. Referring to figs. 2 and 5, the offer advertisement subroutine of step 306 begins in step 500, wherein a selection of amenity choices to be offered to the customer is made, based upon various sources of data including customer flag information as to the novice or expert status of the customer or the inside versus outside payment method selected by the customer. Additionally, the source of data include historical information about the customer stored in the database 32. Such information may include information on past purchase history at the station or past purchase history with other vendors. The information may have been compiled in connection with the customer's acquisition or use of a particular payment card. The selection of amenity choices may, instead of being made based upon historical data or customer flag information, be made based upon a standard selection offered by the system 1. The standard selection, while not necessarily unique to a particular customer, may nonetheless be dynamic. For instance, the standard selection of amenity choices may vary based on time or date according to which amenity providers have purchased advertising on the system 1. Furthermore, the standard selection may vary according to time and/or date such that according to the time/date, certain amenity choices would be most appealing to the customer. In step 502 an advertise amenities subroutine is called to promote the selection of amenity choices. The advertise amenities subroutine presents a brief audiovisual commercial of the different amenities available for

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purchase. This subroutine is optional and may not be presented at all, or it may be intermittently presented with a display of a list of the amenity choices as described in the execution of step 504. In step 504, the choices of amenities available for purchase are displayed to the customer on the display 20a. The choices may be by category, e.g., "food items," "clothing," "movie tickets," or the like, with specific options branching from each category, e.g., under "food items," the options might be "McDonald's" or "Subway." In other instances, the category choice might have only one selection available. (36) In step 506, a determination is made whether the customer has selected one of the amenity choices. If so, execution proceeds to step 508 wherein a subroutine is called that presents the selected choice to the customer. This subroutine may simply present a menu of options, e.g., "drink," "fries," "burger," or alternatively there may first be a commercial relating to the amenity choice before menu selections are available. The menu choice selections likewise may be presented in a combined screen format with full motion graphics and advertising being presented along with the particular graphics for making the touch-screen choice. For example, one might see on one part of screen 20a a burger being cooked and hear the sizzling sound, while being able to select it by touching the screen from a menu of various choices". Therefore, McCall fuel dispenser system teaches a restaurant (i.e., fuel dispenser store) drive-thru where customers can order meal and receive delivery of food items to the car. Also, McCall teaches a system that present to customers a customize menu of amenity choices based upon the customers' purchase histories. Therefore, McCall teaches the Applicant's claimed invention.

The Applicant argues that McCall does not teach scanning any code whatsoever and that Herz does not teach scanning a code when a customer vehicle enters a restaurant drive-thru. The Examiner answers that Herz teaches a license-plate scanning with camera system that identifies users by their vehicles' license plates and uses this information to target advertisements to the users (see abstract and column 1, lines 15-63). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall would customize a menu selection to users based upon identifying the users by their vehicles license plates, as taught by Herz. This feature would target advertisements to users without the users need to input manual identification.

The Applicant argues that Herz does not teach a "machine readable bumper sticker". The Examiner answers that Herz teaches a "machine readable badge" (see column 3, line 60 – column 4, line 9) and it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the difference between a badge and a bumper sticker would not patentably distinguished the claimed invention from the prior art.

The Applicant argues that neither McCall nor Herz teaches a new item list and recording a time value. The Examiner answers that McCall teaches in column 11, lines 60-65 that if customers decline a reward, in the future that reward may not be offered or something different could be offered in its place. Therefore, McCall teach a new item and the recording of a time value, similar to the Applicant's claimed invention.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number 571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

February 14, 2005



RAQUEL ALVAREZ
PRIMARY EXAMINER